

## SENATE BILL NO. 507

INTRODUCED BY J. ELLIOTT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A POLICY RELATED TO MARKETING,  
5 ADVERTISING, AND PROMOTING MONTANA FOR BUSINESS CREATION AND ECONOMIC GROWTH;  
6 ESTABLISHING A BUSINESS MARKETING AND PROMOTION ACCOUNT; ESTABLISHING A RENTAL  
7 VEHICLE TAX; PROVIDING FOR THE ADMINISTRATION OF THE TAX AND FOR PENALTIES AND  
8 INTEREST; REQUIRING THAT A RENTAL VEHICLE OWNER OR OPERATOR HAVE A PERMIT TO OPERATE;  
9 PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;  
10 AND PROVIDING AN EFFECTIVE DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 NEW SECTION. **Section 1. Legislative findings and declaration of purpose.** (1) The legislature  
15 finds that there is an absence of an informed opinion in the nation's business community regarding the  
16 attractiveness of doing business in Montana and that this viewpoint does not reflect the inherent strengths  
17 and the positive activities that Montana's existing businesses have contributed to responsible and  
18 sustainable economic growth.

19 (2) The legislature further finds that creating new job opportunities requires not only a concerted  
20 effort to expand existing businesses but also the recruitment of business enterprises located outside of  
21 Montana.

22 (3) The legislature further finds that there must be a direct connection between the business  
23 recruitment efforts undertaken by the state and a targeted marketing approach to document Montana's  
24 ability to compete in a global marketplace.

25 (4) The legislature further finds that in order to realize success in recruiting new businesses to  
26 Montana, a coordinated and cooperative marketing and advertising effort is essential to emphasize the  
27 strengths that Montana can offer to business enterprises within our economic region and throughout the  
28 global marketplace.

29 (5) The legislature further finds that economic development in rural areas of Montana is beneficial  
30 to both rural communities and urban communities that serve as regional economic intersections within the

1 state and that marketing and advertising efforts should therefore focus equal attention throughout all areas  
2 of the state.

3 (6) The legislature therefore declares that there is a compelling public need to:

4 (a) establish an effective approach to market and advertise the economic attributes and potential  
5 of Montana's business enterprises, skilled workforce, local communities, infrastructure, natural resources,  
6 and state-administered technical and financial assistance;

7 (b) promote the development of effective public-private partnerships to ensure that marketing and  
8 advertising efforts focus on increasing sustainable economic development activities throughout Montana;  
9 and

10 (c) strengthen the existing regional network of businesses, local economic development  
11 organizations, and communities to ensure that those entities are able to respond to the needs of  
12 nonresident businesses seeking to relocate to Montana as a result of an aggressive marketing and  
13 advertising campaign.

14

15 **NEW SECTION. Section 2. Business marketing and promotion account -- department duties.** (1)

16 There is a business marketing and promotion account in the state special revenue fund established in  
17 17-2-102.

18 (2) There must be deposited in the account proceeds from the rental vehicle tax as provided in  
19 [section 4].

20 (3) The money deposited in the account must be used by the department of commerce to contract  
21 with the private sector to develop and deliver a regional, national, and global business development  
22 marketing plan that meets the purposes established in [section 1].

23 (4) The department shall prepare, in cooperation with local communities and economic  
24 development entities, information describing existing infrastructure, telecommunications capabilities and  
25 facilities, the workforce, and economic activity generated by existing businesses for inclusion in the  
26 marketing plan provided for in subsection (3).

27

28 **NEW SECTION. Section 3. Definitions.** As used in [sections 3 through 8], the following definitions  
29 apply:

30 (1) (a) "Gross receipts" means all receipts from sources within the state, whether in money or

1 other consideration, received from engaging in the business of renting rental vehicles.

2 (b) The term does not include the amount received for motor fuel.

3 (2) "Rental vehicle" means a passenger vehicle that:

4 (a) is rented for a period of not more than 30 days;

5 (b) is rented without a driver;

6 (c) is designed to transport 15 or fewer passengers; and

7 (d) has a manufacturer's rated capacity of 1 ton or less.

8 (3) "Rental vehicle owner or operator" means a person who owns or leases rental vehicles and  
9 who rents or offers to rent the rental vehicles.

10

11 NEW SECTION. **Section 4. Rate of rental vehicle tax -- reimbursement -- exception -- collection**  
12 **and reporting -- distribution.** (1) (a) Except as provided in subsection (1)(b), there is imposed a tax on  
13 rental vehicles. The tax is 4% of the rental base price, exclusive of insurance, as stated in the rental  
14 contract. The tax must be stated in the rental contract and collected in accordance with the terms of the  
15 contract.

16 (b) The tax imposed by this section does not apply to the rental base price for rental vehicles  
17 rented pursuant to a contract for insurance.

18 (2) The rental vehicle owner or operator shall report to the department, at the end of each calendar  
19 quarter, the gross receipts actually collected during that quarter attributable to the rental contracts,  
20 exclusive of gross receipts attributable to contracts for insurance. The report must be on a form provided  
21 by the department. The report is due on or before the last day of the month following the end of the  
22 calendar quarter and must be accompanied by a payment in an amount equal to 95% of the tax required  
23 to be collected under subsection (1). The remaining 5% of the amount of the tax must be retained by the  
24 rental vehicle owner or operator as an administrative allowance for collection of the tax.

25 (3) The department shall credit the proceeds of the tax, less an allowance for overpayments and  
26 refunds, to the business marketing and promotion account established in [section 2].

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28 NEW SECTION. **Section 5. Permit application -- place of business.** (1) Prior to engaging in the  
29 business of renting vehicles, a prospective rental vehicle owner or operator shall file with the department  
30 an application for a permit. If the prospective rental vehicle owner or operator has more than one location

1 in which the rental vehicle owner or operator maintains an office or other place of business, an application  
2 may include multiple locations.

3 (2) Each rental vehicle owner or operator who is required to file a report under [sections 3 through  
4 8] is required to file an application for a permit.

5 (3) Each application for a permit must be on a form prescribed by the department and must set  
6 forth the name under which the applicant intends to transact business, the location of the applicant's place  
7 or places of business, and other information that the department may require. The application must be filed  
8 by the rental vehicle owner or operator if the rental vehicle owner or operator is a natural person, by a  
9 member or partner if the rental vehicle owner or operator is an association or partnership, or by a person  
10 authorized to sign the application if the rental vehicle owner or operator is a corporation.

11 (4) A rental vehicle owner or operator who fails to comply with this section is subject to a fine  
12 in an amount of not less than \$50 and not more than \$100.

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14 NEW SECTION. **Section 6. Audits -- records.** (1) The department may audit the books and records  
15 of a rental vehicle owner or operator to ensure that the proper amount of the tax imposed by [section 4]  
16 has been collected. An audit may be done on the premises of the rental vehicle owner or operator or at  
17 any other convenient location.

18 (2) The department may request the rental vehicle owner or operator to provide the department  
19 with books, ledgers, registers, or other documents necessary to verify the correct amount of the tax.

20 (3) The rental vehicle owner or operator shall maintain and have available for inspection by the  
21 department books, ledgers, registers, or other documents showing the collection of the rental vehicle tax  
22 for the preceding 5 years.

23 (4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files  
24 a false or fraudulent report violating the provisions of [sections 3 through 8], the amount of tax due under  
25 any report must be determined by the department within 5 years after the return is made. After 5 years,  
26 the department is barred from revising any report or recomputing the tax due, and a proceeding in court  
27 for the collection of the tax may not be instituted unless notice of any additional tax is provided within the  
28 5-year period.

29 (5) An application for revision may be filed with the department by a rental vehicle owner or  
30 operator within 5 years from the original due date of the report.

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2        **NEW SECTION.** **Section 7. Penalty for failure to file or pay.** (1) A rental vehicle owner or operator  
3 who fails to file the report, as required by [section 4], must be assessed a penalty as provided in 15-1-216.  
4 The department may waive the penalty as provided in 15-1-206.

5        (2) A rental vehicle owner or operator who fails to make payment or fails to report and make  
6 payment, as required by [section 4], must be assessed a penalty and interest as provided in 15-1-216. The  
7 department may waive any penalty pursuant to 15-1-206.

8        (3) (a) If a rental vehicle owner or operator fails to file the report required by [section 4] or if the  
9 department determines that the report understates the amount of the tax due, the department may  
10 determine the amount of the tax due and assess that amount against the rental vehicle owner or operator.  
11 The provisions of 15-1-211 apply to any assessment by the department. The taxpayer may seek review  
12 of the assessment pursuant to 15-1-211.

13        (b) When a deficiency is determined and the tax becomes final, the department shall mail a notice  
14 and demand for payment to the rental vehicle owner or operator. The tax is due and payable at the  
15 expiration of 30 days after the notice and demand were mailed. Interest on any deficiency assessment  
16 must be computed as provided in 15-1-216.

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18        **NEW SECTION.** **Section 8. Overpayment and underpayment.** (1) If the department determines  
19 that the amount of tax, penalty, or interest paid for any year is more than the amount due, the amount  
20 of the overpayment must be credited against any tax, penalty, or interest then due from the rental vehicle  
21 owner or operator and the balance must be refunded to the rental vehicle owner or operator, to the rental  
22 vehicle owner's or operator's successor through reorganization, merger, or consolidation, or to the rental  
23 vehicle owner's or operator's shareholders upon dissolution.

24        (2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate that  
25 is charged on unpaid taxes, as provided in 15-1-216, from the due date of the return or from the date of  
26 overpayment, whichever is later, to the date that the department approves refunding or crediting of the  
27 overpayment.

28        (3) (a) Interest does not accrue during a period in which the processing of a claim for refund is  
29 delayed more than 30 days by reason of failure of the rental vehicle owner or operator to furnish  
30 information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date that the return is due or from the date that the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one reasonably assumed to be imposed by [sections 3 through 8] is considered an overpayment with respect to which interest is allowable.

**NEW SECTION. Section 9. Codification instruction.** (1) Sections 1 and 2 are intended to be codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to sections 1 and 2.

(2) Sections 3 through 8 are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to sections 3 through 8.

**NEW SECTION. Section 10. COORDINATION INSTRUCTION. IF SENATE BILL NO. 439 IS PASSED AND APPROVED AND PROVIDES FOR A RENTAL VEHICLE SURCHARGE, THEN [THIS ACT] IS VOID.**

**NEW SECTION. Section 11. Effective date.** This act is effective upon approval by the electorate.

**NEW SECTION. Section 12. Submission to electorate.** This act shall be submitted to the qualified electors of Montana at a special election to be held in conjunction with the general election to be held in November 2001 by printing on the ballot the full title of this act and the following:

[ ] FOR imposing a rental vehicle tax to promote through the media the advantages of moving businesses to Montana.

[ ] AGAINST imposing a rental vehicle tax to promote through the media the advantages of moving businesses to Montana.

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